Hovsepian v. Apple, Inc.

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EXHIBIT H

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ACACIA MEDIA TECHNOLOGIES CORPORATION

UNITED STATES DISTRICT COURT

DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

ACACIA MEDIA TECHNOLOGIES CORPORATION, Plaintiff, vs. NEW DESTINY INTERNET GROUP, INC., et al. Defendants.	Case No. SA CV 02-1040 JW (MLGx) **Consolidated Cases:** SA CV 02-1048 JW (MLGx) SA CV 02-1063 JW (MLGx) SA CV 02-1165 JW (MLGx) SA CV 03-0218 JW (MLGx) SA CV 03-0219 JW (MLGx) SA CV 03-0259 JW (MLGx) SA CV 03-0271 JW (MLGx) SA CV 03-0308 JW (MLGx) **Related Cases:** SA CV 03-1801 JW (MLGx) SA CV 03-1803 JW (MLGx) SA CV 03-1804 JW (MLGx) SA CV 03-1807 JW (MLGx) **DECLARATION OF S. MERRILL WEISS IN SUPPORT OF ACACIA'S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT** Hearing Date: December 2, 2004 Hearing Time: 9:00 a.m. Courtroom: 9C, 9th Floor
AND ALL RELATED CASE ACTIONS.	Honorable James Ware

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ii. Contemporaneous Common knowledge

82. Because it is often helpful in the creation and processing of content for television programs and commercials, feature films, short documentaries, and the like, to separate the handling of the video and the audio into different production and post production processes, techniques long ago were developed to permit such "dual system" operations. One of the principal methods enabling dual system procedures is the use of a time code carried and stored with each element of a work to identify the time relationships between elements and to permit their reconstruction. Time code is similarly used in the process of editing content for artistic, editorial, or time constraint reasons. Time code was originally developed to enable precise control of the timing of the editing processes on complex videotape machines that were not designed with editing in mind.

83. As a result of the pervasive need for time code in the processing and delivery of television programming, the creation of feature films, and the editing and processing of audio recordings, it has become an area for standardization of the techniques having very wide adoption on a worldwide basis. The preeminent standard for time code in the electronic media industries is the SMPTE 12M standard of the Society of Motion Picture and Television Engineers. It has been in use for nearly 30 years and serves the needs of the film, television, audio, and similar industry segments. It was in widespread use in 1991 and would have been well known to one of ordinary skill in the art at that time.

iii. Example

84. In the period from 1976 to 1978, while working at KYW Television in Philadelphia, I supervised the crew that produced the Mike Douglas Show on nearly a daily basis. When I took over supervising the crew, the program was routinely edited using methods involving actually cutting the videotape and splicing together the ends of the sections to be joined to create an edit. The tape was 2 inches wide, and the locations of the magnetic tracks on the tape needed to be precisely determined by

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